

AMENDED IN ASSEMBLY MAY 11, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1097**

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**Introduced by Assembly Member Holden**

February 27, 2015

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An act to add Section 7599.56 to the Business and Professions Code, and to amend ~~Sections 1633.3 and 1689.5~~ *Section 1633.3* of the Civil Code, relating to alarm companies.

LEGISLATIVE COUNSEL'S DIGEST

AB 1097, as amended, Holden. Alarm companies: electronic transactions.

The Alarm Company Act provides for the licensure and regulation of alarm company operators and the certification and registration of employees of alarm companies, including alarm agents, by the Bureau of Security and Investigative Services within the Department of Consumer Affairs. That act requires that specified agreements entered into by an alarm company pertaining to alarm systems, including, among others, lease agreements, monitoring agreements, service agreements, and installation agreements, be in writing. The Uniform Electronic Transactions Act (UETA) generally allows parties to contract to conduct transactions by electronic means, imposes specified requirements on electronic transactions in order to comply with the act, and provides specified protections for electronic transactions conducted pursuant to the act. UETA does not apply to certain transactions, including, among others, “home solicitation contracts,” as defined. Existing law provides specified time periods for consumers to cancel a home solicitation contract, and requires specified disclosures and statements, and

separately executed cancellation documents in connection with the execution of those contracts.

This bill would provide that, notwithstanding certain provisions in UETA excluding home solicitation contracts, contracts for services or other activities authorized by the Alarm Company Act may be conducted by electronic means. The bill would provide that the provisions of UETA would apply to transactions conducted by persons licensed, certified, or registered pursuant to the Alarm Company Act, for purposes authorized by the Alarm Company Act, as specified. ~~The bill would also exclude contracts for services or other activities authorized by the Alarm Company Act from the definition of a home solicitation contract.~~ The bill would require those electronic contracts for services or other activities authorized by the Alarm Company Act to comply with specified cancellation periods, statements, and disclosures that apply to home solicitation contracts, and would authorize signatures, disclosures, and documents required by those provisions to be provided and transmitted electronically.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 7599.56 is added to the Business and
- 2 Professions Code, to read:
- 3 7599.56. (a) ~~Contracts~~ *Notwithstanding Section 7599.54,*
- 4 *contracts* for services or other activities authorized by this chapter
- 5 may be conducted by electronic means. Notwithstanding
- 6 subdivisions (b) and (c) of Section 1633.3 of the Civil Code, the
- 7 Uniform Electronic Transactions Act (Title 2.5 (commencing with
- 8 Section 1633.1) of Part 2 of Division 3 of the Civil Code) applies
- 9 to electronic records and electronic signatures relating to
- 10 transactions conducted by a person licensed, certified, or registered
- 11 pursuant to this chapter, for purposes of activities authorized by
- 12 this chapter. An electronic contract for services or other activities
- 13 authorized by this chapter shall not be used without the consent
- 14 of the contracting consumer.
- 15 (b) ~~Contracts~~ *Notwithstanding Section 1689.6 of the Civil Code,*
- 16 *for contracts* for services or other activities authorized by this
- 17 chapter shall comply with paragraph (1) of subdivision (a) of, and
- 18 subdivisions (d) and (e) of, Section 1689.6 of the Civil Code,

provided however, that *chapter*, a notice of cancellation and copies of the contract or offer described in those provisions may be provided and transmitted electronically.

(c) ~~Contracts Notwithstanding Section 1689.7 of the Civil Code, for contracts~~ for services or other activities authorized by this chapter shall comply with paragraph (1) of subdivision (a) of, and subdivision (c) of, Section 1689.7 of the Civil Code, provided however, that *chapter*, the signatures, disclosures, and documents described in those provisions may be provided and transmitted electronically.

SEC. 2. Section 1633.3 of the Civil Code, as amended by Section 3 of Chapter 913 of the Statutes of 2014, is amended to read:

1633.3. (a) Except as otherwise provided in subdivisions (b) and (c), this title applies to electronic records and electronic signatures relating to a transaction.

(b) This title does not apply to transactions subject to the following laws:

(1) A law governing the creation and execution of wills, codicils, or testamentary trusts.

(2) Division 1 (commencing with Section 1101) of the Uniform Commercial Code, except Sections 1206 and 1306.

(3) Divisions 3 (commencing with Section 3101), 4 (commencing with Section 4101), 5 (commencing with Section 5101), 8 (commencing with Section 8101), 9 (commencing with Section 9101), and 11 (commencing with Section 11101) of the Uniform Commercial Code.

(4) A law that requires that specifically identifiable text or disclosures in a record or a portion of a record be separately signed, including initialed, from the record. However, this paragraph does not apply to Section 1677 or 1678 of this code or Section 1298 of the Code of Civil Procedure.

(c) This title does not apply to any specific transaction described in Section 17511.5 of the Business and Professions Code, Section 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7, or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14, 1789.16, or 1793.23 of, Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5, 1917.712, 1917.713, 1950.6, 1983, 2924b, 2924c, 2924f, 2924i,

1 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with Section  
2 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section  
3 2954.5 or 2963 of, Chapter 2b (commencing with Section 2981)  
4 or 2d (commencing with Section 2985.7) of Title 14 of Part 4 of  
5 Division 3 of, Section 3071.5 of, Part 5 (commencing with Section  
6 4000) of Division 4 of, or Part 5.3 (commencing with Section  
7 6500) of Division 4 of this code, subdivision (b) of Section 18608  
8 or Section 22328 of the Financial Code, Section 1358.15, 1365,  
9 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code,  
10 Section 662, paragraph (2) of subdivision (a) of Section 663, 664,  
11 667.5, 673, 677, paragraph (2) of subdivision (a) of Section 678,  
12 subdivisions (a) and (b) of Section 678.1, Section 786, 10113.7,  
13 10127.7, 10127.9, 10127.10, 10192.18, 10199.44, 10199.46,  
14 10235.16, 10235.40, 10509.4, 10509.7, 11624.09, or 11624.1 of  
15 the Insurance Code, Section 779.1, 10010.1, or 16482 of the Public  
16 Utilities Code, or Section 9975 or 11738 of the Vehicle Code. An  
17 electronic record may not be substituted for any notice that is  
18 required to be sent pursuant to Section 1162 of the Code of Civil  
19 Procedure. Nothing in this subdivision shall be construed to  
20 prohibit the recordation of any document with a county recorder  
21 by electronic means.

22 (d) This title applies to an electronic record or electronic  
23 signature otherwise excluded from the application of this title under  
24 subdivision (b) when used for a transaction subject to a law other  
25 than those specified in subdivision (b).

26 (e) A transaction subject to this title is also subject to other  
27 applicable substantive law.

28 (f) The exclusion of a transaction from the application of this  
29 title under subdivision (b) or (c) shall be construed only to exclude  
30 the transaction from the application of this title, but shall not be  
31 construed to prohibit the transaction from being conducted by  
32 electronic means if the transaction may be conducted by electronic  
33 means under any other applicable law.

34 (g) Notwithstanding subdivisions (b) and (c), this title shall  
35 apply to electronic records and electronic signatures relating to  
36 transactions conducted by a person licensed, certified, or registered  
37 pursuant to the Alarm Company Act (Chapter 11.6 (commencing  
38 with Section 7590) of Division 3 of the Business and Professions  
39 Code) for purposes of activities authorized by that act.

1 (h) This section shall remain in effect only until January 1, 2019,  
2 and as of that date is repealed, unless a later enacted statute, that  
3 is enacted before January 1, 2019, deletes or extends that date.

4 SEC. 3. Section 1633.3 of the Civil Code, as amended by  
5 Section 4 of Chapter 913 of the Statutes of 2014, is amended to  
6 read:

7 1633.3. (a) Except as otherwise provided in subdivisions (b)  
8 and (c), this title applies to electronic records and electronic  
9 signatures relating to a transaction.

10 (b) This title does not apply to transactions subject to the  
11 following laws:

12 (1) A law governing the creation and execution of wills, codicils,  
13 or testamentary trusts.

14 (2) Division 1 (commencing with Section 1101) of the Uniform  
15 Commercial Code, except Sections 1206 and 1306.

16 (3) Divisions 3 (commencing with Section 3101), 4  
17 (commencing with Section 4101), 5 (commencing with Section  
18 5101), 8 (commencing with Section 8101), 9 (commencing with  
19 Section 9101), and 11 (commencing with Section 11101) of the  
20 Uniform Commercial Code.

21 (4) A law that requires that specifically identifiable text or  
22 disclosures in a record or a portion of a record be separately signed,  
23 including initialed, from the record. However, this paragraph does  
24 not apply to Section 1677 or 1678 of this code or Section 1298 of  
25 the Code of Civil Procedure.

26 (c) This title does not apply to any specific transaction described  
27 in Section 17511.5 of the Business and Professions Code, Section  
28 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7,  
29 or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of  
30 Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14,  
31 1789.16, or 1793.23 of, Chapter 1 (commencing with Section  
32 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5,  
33 1917.712, 1917.713, 1950.6, 1983, 2924b, 2924c, 2924f, 2924i,  
34 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with Section  
35 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section  
36 2954.5 or 2963 of, Chapter 2b (commencing with Section 2981)  
37 or 2d (commencing with Section 2985.7) of Title 14 of Part 4 of  
38 Division 3 of, Section 3071.5 of Part 5 (commencing with Section  
39 4000) of Division 4 of, or Part 5.3 (commencing with Section  
40 6500) of Division 4 of this code, subdivision (b) of Section 18608

1 or Section 22328 of the Financial Code, Section 1358.15, 1365,  
2 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code,  
3 Section 662, 663, 664, 667.5, 673, 677, 678, 678.1, 786, 10086,  
4 10113.7, 10127.7, 10127.9, 10127.10, 10192.18, 10199.44,  
5 10199.46, 10235.16, 10235.40, 10509.4, 10509.7, 11624.09, or  
6 11624.1 of the Insurance Code, Section 779.1, 10010.1, or 16482  
7 of the Public Utilities Code, or Section 9975 or 11738 of the  
8 Vehicle Code. An electronic record may not be substituted for any  
9 notice that is required to be sent pursuant to Section 1162 of the  
10 Code of Civil Procedure. Nothing in this subdivision shall be  
11 construed to prohibit the recordation of any document with a county  
12 recorder by electronic means.

13 (d) This title applies to an electronic record or electronic  
14 signature otherwise excluded from the application of this title under  
15 subdivision (b) when used for a transaction subject to a law other  
16 than those specified in subdivision (b).

17 (e) A transaction subject to this title is also subject to other  
18 applicable substantive law.

19 (f) The exclusion of a transaction from the application of this  
20 title under subdivision (b) or (c) shall be construed only to exclude  
21 the transaction from the application of this title, but shall not be  
22 construed to prohibit the transaction from being conducted by  
23 electronic means if the transaction may be conducted by electronic  
24 means under any other applicable law.

25 (g) Notwithstanding subdivisions (b) and (c), this title shall  
26 apply to electronic records and electronic signatures relating to  
27 transactions conducted by a person licensed, certified, or registered  
28 pursuant to the Alarm Company Act (Chapter 11.6 (commencing  
29 with Section 7590) of Division 3 of the Business and Professions  
30 Code) for purposes of activities authorized by that act.

31 (h) This section shall become operative on January 1, 2019.

32 ~~SEC. 4. Section 1689.5 of the Civil Code is amended to read:~~  
33 ~~1689.5. As used in Sections 1689.6 to 1689.11, inclusive, and~~  
34 ~~in Section 1689.14:~~

35 (a) ~~“Home solicitation contract or offer” means any contract,~~  
36 ~~whether single or multiple, or any offer which is subject to~~  
37 ~~approval, for the sale, lease, or rental of goods or services or both,~~  
38 ~~made at other than appropriate trade premises in an amount of~~  
39 ~~twenty-five dollars (\$25) or more, including any interest or service~~  
40 ~~charges. “Home solicitation contract” does not include any contract~~

1 under which the buyer has the right to rescind pursuant to Title 1,  
2 Chapter 2, Section 125 of the federal Consumer Credit Protection  
3 Act (Public Law 90-321) and the regulations promulgated pursuant  
4 thereto. "Home solicitation contract" does not include a contract  
5 for goods or services conducted by a person licensed, certified, or  
6 registered pursuant to the Alarm Company Act (Chapter 11.6  
7 (commencing with Section 7590) of Division 3 of the Business  
8 and Professions Code) for purposes of activities authorized by that  
9 act.

10 (b) "Appropriate trade premises," means premises where either  
11 the owner or seller normally carries on a business, or where goods  
12 are normally offered or exposed for sale in the course of a business  
13 carried on at those premises.

14 (c) "Goods" means tangible chattels bought for use primarily  
15 for personal, family, or household purposes, including certificates  
16 or coupons exchangeable for these goods, and including goods  
17 that, at the time of the sale or subsequently, are to be so affixed to  
18 real property as to become a part of the real property whether or  
19 not severable therefrom, but does not include any vehicle required  
20 to be registered under the Vehicle Code, nor any goods sold with  
21 this vehicle if sold under a contract governed by Section 2982, and  
22 does not include any mobilehome, as defined in Section 18008 of  
23 the Health and Safety Code, nor any goods sold with this  
24 mobilehome if either are sold under a contract subject to Section  
25 18036.5 of the Health and Safety Code.

26 (d) "Services" means work, labor and services, including, but  
27 not limited to, services furnished in connection with the repair,  
28 restoration, alteration, or improvement of residential premises, or  
29 services furnished in connection with the sale or repair of goods  
30 as defined in Section 1802.1, and courses of instruction, regardless  
31 of the purpose for which they are taken, but does not include the  
32 services of attorneys, real estate brokers and salesmen, securities  
33 dealers or investment counselors, physicians, optometrists, or  
34 dentists, nor financial services offered by banks, savings  
35 institutions, credit unions, industrial loan companies, personal  
36 property brokers, consumer finance lenders, or commercial finance  
37 lenders, organized pursuant to state or federal law, that are not  
38 connected with the sale of goods or services, as defined herein,  
39 nor the sale of insurance that is not connected with the sale of  
40 goods or services as defined herein, nor services in connection

1 with the sale or installation of mobilehomes or of goods sold with  
2 a mobilehome if either are sold or installed under a contract subject  
3 to Section 18036.5 of the Health and Safety Code, nor services for  
4 which the tariffs, rates, charges, costs, or expenses, including in  
5 each instance the time sale price, is required by law to be filed  
6 with and approved by the federal government or any official,  
7 department, division, commission, or agency of the United States  
8 or of the state.

9 (e) ~~“Business day” means any calendar day except Sunday, or~~  
10 ~~the following business holidays: New Year’s Day, Washington’s~~  
11 ~~Birthday, Memorial Day, Independence Day, Labor Day, Columbus~~  
12 ~~Day, Veterans’ Day, Thanksgiving Day, and Christmas Day.~~

13 (f) ~~This section shall become operative on January 1, 2006.~~